

CIRCULARS—TREASURY AND WAR DEPARTMENTS.

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES,

TRANSMITTING

*Copies of every circular or letter of instruction emanating from the Treasury or War Departments since the 30th day of June last, and addressed to either the receiving or the disbursing officers stationed in States wherein Land Offices are established, or public works are constructing under the authority of Congress.*

JANUARY 13, 1835.

Read, and laid upon the table.

WASHINGTON, January 13, 1835.

*To the House of Representatives:*

In compliance with the resolution of the House of the 8th instant, requesting "copies of every circular or letter of instruction emanating from the Treasury or War Departments since the 30th day of June last, and addressed to either the receiving or the disbursing officers stationed in States wherein land offices are established, or public works are constructing under the authority of Congress," I transmit, herewith, reports from the Secretaries of the Treasury and War Departments, containing the information sought for.

ANDREW JACKSON.

TREASURY DEPARTMENT,

January 12, 1835.

SIR: In compliance with your directions, I have the honor, herewith, to transmit to you copies of every circular-letter of instruction emanating from this department since the 30th day of June last, addressed to receivers of public moneys. No circular instructions, since that period,

[Gales & Seaton, print.]

have been issued by this department, addressed to disbursing officers stationed in States wherein land offices are established, or public works are constructing under the authority of Congress.

I have the honor to remain,

Sir, very respectfully,

Your obedient servant,

LEVI WOODBURY,

*Secretary of the Treasury.*

The PRESIDENT of the United States.

TREASURY DEPARTMENT,

*August 6, 1834.*

SIR: For the mutual accommodation of the public officers and creditors in your neighborhood, and of yourself and the Treasury Department, I propose hereafter to direct warrants in their favor, to yourself, for payment, when desired by them.

It will be in your power, also, before a warrant is obtained by them, and whenever you have confidence in their honesty and solvency, to take an assignment or draft, by them, in your favor, of their supposed claim on the Treasury, to pay its amount, and, on its being forwarded here, to receive a warrant, in your own behalf, for the sum due. All the warrants paid in the manner first stated, or received in your own name, will be ample vouchers in your behalf, on a settlement of your accounts, and, in this way, the officers and creditors of the Government will often be saved travel and expense. You will have to make less frequent deposits, and at less hazard, as the balance on hand, to be deposited at the end of each month, will, probably, in this way, become considerably reduced, and the department will have the satisfaction of obliging others, through its own officers, without increasing sensibly the risk or labor of any. You will please to notify such public officers and creditors as live near you, of the existence of this arrangement, in order that they may, if convenient and agreeable, take advantage of its benefits.

I am, very respectfully,

Your obedient servant,

LEVI WOODBURY,

*Secretary of the Treasury.*

P. S. You will take receipt on the bottom of the warrants paid, and return the warrants and receipts to this department monthly.

L. W.

*Addressed to the Receivers of Public Moneys  
at Indiana, Illinois, Missouri, Michigan,  
Arkansas, and Florida,*

## TREASURY DEPARTMENT,

November 5, 1834.

*Circular to the Collectors of the Customs and all Receivers of Public Money.*

Whereas, by the act of Congress passed 31st July, 1789, it is provided "that the duties and fees to be collected by virtue of this act shall be received in gold and silver coin only;" and, by a usage under that act, and a similar one as to the payment for public lands, it was customary to receive only specie, and the notes or bills of banks redeemable in specie, until 1814; and, after a different practice, adopted in 1814, Congress, on the 30th April, 1816, resolved, "That, from and after the 20th day of February next, no such duties, taxes, debts, or sums of money accruing or becoming payable to the United States, ought to be collected or received otherwise than in the legal currency of the United States, or Treasury notes, or notes of the Bank of the United States, or in notes of banks which are payable and paid, on demand, in the said legal currency of the United States." And whereas the practice, under that resolution, conformed to its provisions till January 21st, 1828, when permission by this department, under certain assurances from the Bank of the United States, was given that drafts or checks of that Bank and its branches should be received for the public dues, though said drafts or checks were not notes of the Bank, not being, like notes, signed by the president and cashier thereof, nor originally made payable to bearer, nor, according to the subsequent decision of the Supreme Court, coming within the description of a *note* or *bill*. And whereas Congress have never authorized the issuing of such drafts for the purpose of circulation as currency, and have refused, though urgently and repeatedly requested, to permit the issuing even of notes of the Bank of the smaller denominations, so signed; and the great extent to which the said drafts, of small denominations, have been put in circulation as currency, seeming to be directly repugnant to the spirit of the act incorporating the Bank, and of the subsequent proceedings of Congress; and doubts having arisen as to the legal liability of the Bank to redeem the said drafts in specie, under the penalty provided in the charter for the non-payment of "its bills, notes, or obligations;" and the counterfeits of the said drafts having become very numerous and difficult of detection, and those who *sell* or *utter* them being likely to escape punishment, in consequence of questions which arise in prosecuting them under the said charter—it is therefore deemed proper, in order that the clearly expressed views of Congress should be enforced, and the agents of the department protected from risks and losses by said drafts, to revoke the permission granted in 1828; but, with a view to give due notice, to the community and Bank, of the contemplated change, not to allow the revocation to take effect till the period hereafter mentioned.

Hence, in conformity to the requirements of the aforesaid acts and joint resolution of Congress, all collectors of the customs, and all receivers of public money, are hereby enjoined that, after the 1st day of January next, they shall not receive, in payment of duties or of public lands, any coin or paper except such as is described in said resolution,

viz. "the legal currency of the United States, or Treasury notes, or notes of the Bank of the United States, or notes of banks which are payable and paid, on demand, in the said legal currency of the United States."

LEVI WOODBURY,  
*Secretary of the Treasury.*

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GENERAL LAND OFFICE, *January 10, 1835.*

The Commissioner of the General Land Office transmits to the Secretary of the Treasury, by request, copies of all the circular letters issued by him since the 30th June last.

Hon. LEVI WOODBURY,  
*Secretary of the Treasury.*

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*Circular to Registers and Receivers of the United States Land Offices,  
by order of the Secretary of the Treasury.*

GENERAL LAND OFFICE,  
*July 22, 1834.*

GENTLEMEN: Annexed is a copy of an act of Congress, approved 19th June, 1834, entitled "An act to revive the act entitled 'An act to grant pre-emption rights to settlers on the public lands,' approved May twenty-ninth, one thousand eight hundred and thirty, together with a copy of the former act.

1st. The recent act provides "that every settler or occupant of the public lands, prior to the passage of this act, who is now in possession, and cultivated any part thereof in the year 1833, shall be entitled to all the benefits and privileges provided by the act entitled 'An act to grant pre-emption rights to settlers on the public lands,' approved May 29th, 1830, and the said act is hereby revived, and shall continue in force two years from the passage of this act, and no longer," to wit, to the 19th June, 1836.

2d. The fact of *cultivation* in *eighteen hundred and thirty-three*, and that of *possession* of the land applied for *on the nineteenth of June, eighteen hundred and thirty-four*, must be established by the affidavit of the claimant, supported by such corroborative testimony of disinterested witnesses as shall be satisfactory to you both. The evidence must be taken by a justice of the peace *in the presence* of the register and receiver, wherever convenient, and be in answer to such interrogatories, to be propounded by them, as may be best calculated to elicit the truth; and when not convenient for the witnesses to attend before the register and receiver, the evidence is to be taken by a justice of the peace, and be in answer to such interrogatories, to be propounded by him, as shall be best calculated to elicit the truth.



The credibility of the testimony is to be certified by the justice of the peace, and by such other persons of the neighborhood as can certify the same.

3d. Possession on 19th June, 1834, and cultivation in 1833, are both essentially necessary to the conferring of the pre-emption privilege, the absence of either of which requisites will vitiate the claim. The building of a mill is a "*possession*," but, without actual cultivation, it does not confer the privilege under the law. The extent and nature of the *cultivation* are points concerning which the law is silent. The cultivation of a crop of grain, esculent roots, or other vegetables of ordinary culture in the peculiar section of the country, is to be regarded as sufficient as respects the requisite of "*cultivation*," together with the ordinary fence or other suitable enclosure; or, when no crop or product has been taken from the land, and it shall appear to your satisfaction that the claimant has, in good faith, made the usual preparations for a crop, as, when he shall have cleared ground and enclosed the field, and ploughed the soil preparatory to the ensuing seed-time, and with intent to sow or plant, such shall be regarded and taken as a sufficient cultivation to entitle him to the benefit of the act.

The erection of a dwelling-house, for the purposes of habitation, will be regarded as a requisite of "*possession*."

4th. The provisions of the act are not available to any person or persons who shall fail to make the proof and payment required, before the day appointed for the commencement of the sales of lands including the tract or tracts on which the right of pre-emption is claimed; nor can the right of pre-emption extend to any land which is reserved from sale by act of Congress, or by order of the President, or which by law may have been appropriated for any purpose whatsoever.

5th. Should any tract of land, subject to private entry at the date of the act, be entered at ordinary private sale, and a pre-emption claim be duly established thereto within the term of two years from the date of the act, the former entry is null and void, and the register and receiver are hereby required to make *monthly reports* of all such interfering sales, designating the tract, date of sale, name of purchaser, quantity of acres, and purchase money; also, name of pre-emptor and date when satisfactory proof of pre-emption was admitted. On such reports, orders for repayment will be issued.

6th. Where a person inhabits one quarter section and cultivates another, he shall be permitted to enter the one or the other, at his discretion, provided such occupant shall designate, within *six months* from the passage of this act, (viz. from 19th June, 1834,) the quarter section of which he claims the pre-emption, and file in the office of the register a relinquishment of the right of entry to the other; but in all cases where those six months will expire before the date of the public sale of the township including such claim, the designation and relinquishment must be made prior to the day of such sale.

7th. Where an improvement is situate in different quarter sections, the claimant is entitled to enter such two adjacent legal subdivisions, viz. the east and west half-quarters, as will include his improvement.

8th. Where an improvement is situate on a fraction containing less than the quantity of a quarter section, such fraction must be taken *in lieu*

of an entire quarter section. Should the fraction contain more than the quantity of a quarter section, the claimant will be permitted to take *according to the legal subdivisions* of such fraction, so as to include his improvements, and obtain the quantity of one hundred and sixty acres, as nearly as practicable, without any further subdivision.

9th. In cases where two or more persons are settled on the same quarter section, the two *first actual settlers* who cultivated in 1833, and had possession on, 19th June, 1834, are entitled to the right of pre-emption. If an equal division of such quarter by a north and south, or east and west line will not secure to each party his improvements, they must become joint *purchasers* and *patentees* of the entire quarter section; if otherwise, it will be divided so as to secure to the parties, respectively, their improvements; in either case, the said settlers shall each be entitled to a pre-emption of eighty acres of land elsewhere in said land district, so as not to interfere with other settlers having a right of preference.

10th. You are requested to make monthly reports of those cases where two persons obtain a pre-emption on the same quarter section.

11th. Transfers of pre-emption rights, prior to the issuing of patents, will not be recognised.

12th. The act of 29th May, 1830, applied only to lands to which the Indian title was extinguished *at that date*. Hence the right of pre-emption to lands to which the Indian title was extinguished *subsequent to that date*, can be claimed only in virtue of cultivation in 1833, and possession on 19th June, 1834.

13th. In making your usual returns to this office, you will, in all cases of purchases under this act, designate them by marking on the returns the certificate of purchase and receipt thus: "*Pre-emption, act of 1834.*" Separate returns, and a distinct series of numbers for pre-emption "receipts" and "certificates," are *not admissible*.

14th. Inasmuch as the ordinary private entry of lands, subject thereto at the date of the act, must be permitted to proceed at the hazard of interfering with the pre-emption claims which may be established within the two years allowed by the act, it is indispensably necessary, by way of precaution, to require each applicant at private sale to file with his written "application" an affidavit to the following effect, to wit:

"I do solemnly swear (or affirm) that, since the first day of January, 1834, viz. on or about the ——— day of ———, I personally inspected the tract of land designated in the annexed application, viz. the ——— quarter of section No. ———, in township No. ———, of range No. ———, in the district of lands subject to sale at ———, and that there was not, at that time, any person residing thereon, or cultivating the same; and I do not believe that any pre-emption right exists thereto, either under the act of 29th May, 1830, or that of 19th June, 1834."

In case the *party applying* to purchase did not personally inspect the tract, he may be permitted to file, in the above form, the oath, or affirmation, of any person who alleges to have made such personal inspection; and, in all cases, you must be satisfied of the credibility of such testimony.

15th. Where the occupant alleges that he is unable or unwilling to pay for a full quarter section, he may be permitted to enter the half-quarter

which shall include his improvements, to be either the east or west half of such quarter; the divisional line running north and south, in the mode prescribed by the act of 24th April, 1820: but in such case he will be required to file a relinquishment of his further right of pre-emption for the quantity authorized by the act.

16th. You are each entitled by law to receive from the party interested a fee of fifty cents on each case of pre-emption admitted under the act.

17th. The evidences adduced in support of pre-emption rights admitted under this act, and also the oaths required of purchasers at ordinary private sale, are to be carefully enclosed in the appropriate certificates of purchase, and transmitted therewith to this office, accompanied by your joint certificate *as to the credibility of the witnesses*.

The evidences adduced in support of *cases not admitted*, are to be carefully filed in the register's office, with suitable endorsements thereon.

18th. By the 3d section of the act of 19th June, 1834, persons residing on the public lands, and cultivating the same, prior to the year 1829, but who were deprived of the advantage of the act of 29th May, 1830, by reason of the construction given to the same by the Secretary of the Treasury, are authorized to enter, at the minimum price, one quarter section of the public lands within said land district. This provision can be available only to those whose right to a pre-emption in virtue of cultivation and possession prior to 1829 shall be established by satisfactory proof; and who, from any cause originating in the restrictions and limitations imposed by the Secretary of the Treasury, which have not had a remedy by the act of 14th July, 1832, or that of 2d March, 1833, have been deprived of the advantages of the act of 1830. When such cases shall be presented, you will specially report them, with all the testimony, for the decision of the department.

19th. Where floating rights to eighty acres are granted under this act, they must be located and paid for at the time of entry of the tracts on which such floating rights accrue.

In the execution of the act, the utmost vigilance and diligence, on your part, are requisite to detect fraud, and determine the character and credibility of the testimony. A faithful and impartial discharge of your duty are alike essential to protect the Government from imposition, and the honest claimant in his right.


I am, very respectfully,

Gentlemen,

Your obedient servant,

*Commissioner.*

P. S. It will be proper to give publicity to the law, and to these instructions, by distributing copies of this circular throughout your land district; for which purpose, a number of copies will be furnished. It is also desirable that the newspapers published in your district should *gratuitously* publish the same, for the information of the community.

 The forms of journal and ledger now used by the register and receiver will be discontinued from and after the 1st of October next. A form of *ledger*, to be substituted by the receiver, will be furnished as soon as practicable.

AN ACT to revive the act entitled "An act to grant pre-emption rights to settlers on the public lands," approved May 29, 1830.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That every settler or occupant of the public lands, prior to the passage of this act, who is now in possession, and cultivated any part thereof in the year one thousand eight hundred and thirty-three, shall be entitled to all the benefits and privileges provided by the act entitled "An act to grant pre-emption rights to settlers on the public lands," approved May twenty-nine, one thousand eight hundred and thirty; and the said act is hereby revived, and shall continue in force two years from the passage of this act, and no longer.

SEC. 2. *And be it further enacted,* That, where a person inhabits one quarter section and cultivates another, he shall be permitted to enter the one or the other, at his discretion: *Provided,* Such occupant shall designate, within six months from the passage of this act, the quarter section of which he claims the pre-emption under the same.

SEC. 3. *And be it further enacted,* That all persons residing on the public lands, and cultivating the same, prior to the year eighteen hundred and twenty-nine, and who were deprived of the advantages of the law passed on the twenty-ninth May, eighteen hundred and thirty, by the constructions placed on said law by the Secretary of the Treasury, be, and they are hereby, authorized to enter, at the minimum price of the Government, one quarter section of the public lands within said land district.

*Approved, June 19, 1834.*

ANDREW JACKSON.

AN ACT to grant pre-emption rights to settlers on the public lands.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That every settler or occupant of the public lands, prior to the passage of this act, who is now in possession, and cultivated any part thereof in the year one thousand eight hundred and twenty-nine, shall be, and he is hereby, authorized to enter with the register of the land office for the district in which such lands may lie, by legal subdivisions, any number of acres not more than one hundred and sixty, or a quarter section, to include his improvement, upon paying to the United States the then minimum price of said land: *Provided, however,* That no entry or sale of any lands shall be made, under the provisions of this act, which shall have been reserved for the use of the United States, or either of the several States in which any of the public lands may be situated.

SEC. 2. *And be it further enacted,* That if two or more persons be settled upon the same quarter section, the same may be divided between the two first actual settlers, if, by a north and south, or east and west line, the settlement or improvement of each can be included in a half-quarter section; and in such case the said settlers shall each be entitled to a pre-emption of eighty acres of land elsewhere in said land district, so as not to interfere with other settlers having a right of preference.

SEC. 3. *And be it further enacted,* That, prior to any entries being made under the privileges given by this act, proof of settlement or improvement shall be made to the satisfaction of the register and receiver

of the land district in which such lands may lie, agreeably to the rules to be prescribed by the Commissioner of the General Land Office for that purpose; which register and receiver shall each be entitled to receive fifty cents for his services therein; and that all assignments and transfers of the right of pre-emption given by this act prior to the issuance of patents shall be null and void.

SEC. 4. *And be it further enacted*, That this act shall not delay the sale of any of the public lands of the United States beyond the time which has been or may be appointed for that purpose by the President's proclamation: nor shall any of the provisions of this act be available to any person or persons who shall fail to make the proof and payment required before the day appointed for the commencement of the sales of lands including the tract or tracts on which the right of pre-emption is claimed: nor shall the right of pre-emption contemplated by this act extend to any land which is reserved from sale by act of Congress, or by order of the President, or which may have been appropriated for any purpose whatever.

SEC. 5. *And be it further enacted*, That this act shall be and remain in force for one year from and after its passage.

*Approved, May 29, 1830.*

ANDREW JACKSON.

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GENERAL LAND OFFICE,

*August 28, 1834.*

GENTLEMEN: The forms of journal and ledger, heretofore prescribed for the use of your respective offices, will be forthwith discontinued in the register's office, and from and after the 30th day of September next in the receiver's office, at which time a new form of "quarterly account book" will go into operation.

The records of sales and forms hereafter to be used in the register's office will, with the exception of journal and ledger, be as heretofore prescribed, viz. forms of applications, certificates of purchase, register of certificates of purchase, tract book, township plats, and the monthly abstract of sales to be rendered to this office.

The forms to be used in the receiver's office, from and after the 30th September next, will be the form of receipt, the register of receipts, the monthly return of register of receipts, to be transmitted to this office; the form of monthly account current, duplicates of which are to be rendered, one to the Secretary of the Treasury, and the other to this office; and the "quarterly account book," which will commence on the 1st of October next. On the last days of March, June, September, and December, the columns in the quarterly account book are to be added up, and closed for the quarter; and transcripts therefrom are to be rendered to this office for examination and adjustment, on printed blank sheets, corresponding with the form of the book, and with which you will be furnished by this office.

Herewith is transmitted to the receiver a short illustration of the operation of the quarterly account book.

The vast amount of labor that will be saved to both your offices by dispensing with the journal and ledger, is such that no case can now be imagined where any apology for arrears will hereafter be sustained.



In order to ascertain the precise amount of moneys accounted for, on which the receiver is to charge his commission of one per cent., and which charge is always to constitute the concluding item in the debit of the account, he is to be governed by the following rule, taking the items of the illustrative sheet for an example, viz.

Add together the items on which the commission is allowable, ( <i>except the receiver's own commission</i> ), viz.	
Moneys deposited in bank,	\$10,031 57;
compensation for depositing the same,	\$18 47;
military land scrip and forfeited land stock,	\$416;
contingent expenses,	\$33;
salaries,	\$250;
register's commission,	\$24 43;
forming an aggregate sum of	\$10,773 47
To which is to be added the receiver's commission, as ascertained by the subjoined rule	108 82

Forming the amount accounted for, on which commission is allowed	\$10,882 29
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*Rule.—Rate of commission.*

If 99 : 1 :: 10,773 47 : \$108 82, the answer.

*Regulations as to the preservation of township plats, marking the tracts sold, &c.*

Where township plats have become either mutilated, or so defaced by various marks of sales, relinquishments, forfeitures, resales, &c., as to render it difficult *at once* to decide with certainty what lands remain unsold, the register is required to attach to the plat a sheet or half sheet of paper, (as the circumstances may require,) stout, and of good quality, and of a size sufficient to admit of indicating all the tracts in such townships, by their appropriate numbers, which *remain unsold* on a certain fixed day, (viz. 1st day of October, 1834, or any other period after the receipt of this letter of instruction,) and which fact of such lands remaining unsold is to be certified by the register on the paper so attached. It may be that, to discriminate between the sold and unsold tracts in some townships where the plats are old, and the marks numerous and complicated, will be attended with some trouble, but it must be done; and when the examination is once thoroughly made, the exhibit in the mode here intended will save much greater trouble hereafter. The paper so attached to the township plat should be divided off into four columns, the first to contain the number of the section, and its legal subdivisions, remaining unsold; the second column the quantity of acres; the third is to admit of the insertion, hereafter, of the number of the certificate; and the fourth, of the name of the purchaser when the sale shall take place. The labor as well as expense saved to the register by dispensing with the journal and ledger entries, will abundantly compensate him for the trouble of placing the plats in the situation here intended, to afford future facilities to purchasers, and which is not in any wise intended to interfere with the tract book, which is to be most particularly and punctually kept up as heretofore required.

Instead of the indications of sales heretofore made on the plats by the letters A, P, or S, the register is hereby directed, in future, invariably to insert on the plat the figures denoting the number of the certificate of

purchase, which, corresponding with the number of the application, and that of the receiver's receipt, will be the means of immediate reference to all the particulars of sale in the records. Such figuring, however, must be inserted with great accuracy and neatness, so as never to lead to misconception as to their nature, and be so judiciously arranged as never to admit of doubt as to the tract of land they are intended to cover, and at the same time should be so distinctly formed as to be immediately discriminated from the numbers inserted on the plat by the Surveyor General.

In the marking of the plats a finely pointed pen should always be used. A pen made from the crow quill, (such as used by draughtsmen,) or a good steel pen, should always be employed for this purpose.

In marking the sale of *subdivisions of fractional sections*, which are indicated by *red lines* on the plats, no doubt can arise as to the tract the figures intend to indicate; but in marking minute subdivisions of entire sections, which are not subdivided on the plat, the greatest caution is necessary to prevent mistakes. In marking the sale of a quarter-quarter section, I would recommend that you first indicate the subdivision intended by *red dotted lines*, within which the figures are to be inserted: the same mode to be observed in marking the sale of a half-quarter section. In some cases it may be most judicious as well as convenient to make the figures lie from south to north, in others from west to east.

It is represented that in some offices the plats have been greatly impaired by improper handling, or in consequence of registers permitting copies to be taken by purchasers or others. Registers are hereby *positively forbidden* from permitting copies to be taken, either by purchasers or others, or from permitting plats to be ever *handled* by purchasers under any pretext whatever. The continual and unnecessary fingering of those important documents, by soiled hands, in a very short time tends to their inevitable obliteration; and, with a view to afford all the *necessary* facilities for inspecting plats, without the danger of *further injury* to them from the cause stated, each register is required to procure panes of clear white glass for the use of purchasers, one of which is to be always placed over the plat while it is undergoing inspection. The great difficulty as well as expense attending the renewal of a set of plats, when once destroyed, renders the adoption of this otherwise apparently trivial precaution for their preservation of great importance.

In order to afford every due facility in making references to the township plats, each register should provide his office (in case he has not already so done) with a plain pine table on which to display them, and which should be furnished with *drawers* to contain the plats, unless a case has already been provided under former instructions to answer the same purpose. If necessary, in the larger offices *two* tables may be provided. In whatever receptacle the plats are deposited, they must be *locked up*, and the register must allow no person to have access either to them or the tract book after the hours of business; and the register or his confidential agent *must always be present* while purchasers are inspecting them.

I am, very respectfully,

Gentlemen, your obedient servant,

The REGISTER of the Land Office  
and RECEIVER of Public Moneys at

*Circular to the Registers and Receivers of those land districts which include lands ceded to the United States by the Choctaw treaty of the 27th of September, 1830.*

GENERAL LAND OFFICE,

September 24, 1834.

GENTLEMEN: I have to state for your information and government, that, on the 17th instant, the Secretary of the Treasury decided that "it is the opinion of the department that the floating rights of entry granted by the treaty of Dancing Rabbit creek, and by the act of the 20th April, 1832, [respecting Jefferson college,] should be restricted to unimproved lands, unless otherwise directed by the terms of the grant; and that they cannot be exercised to the prejudice of settlers and occupants of the public lands, claiming a right of pre-emption under the provisions of the act of the 19th June last."

With great respect,

Your obedient servant,

JOHN M. MOORE,

Acting Commissioner.

*Sent to the following individuals, in reply to their inquiries, 27th September, 1834.*

Messrs. Cocke & Rose, Columbus, Mississippi.

Edward Sims, esquire, Do. Do.

A. B. Dearing, esquire, Cedar creek, Lowndes county, Mississippi.

Talbot Adams, esquire, Jamestown, Sumpter county, Alabama.

Hon. Samuel W. Mardis, Montevallo, Alabama.

Daniel Greene, esquire, Havana, Greene county, Alabama.

Robert W. Washington, esquire, Jamestown, Sumpter county, Alabama.

John C. Whitsitt, esquire, Gainesville, Alabama.

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*To Registers and Receivers of United States land offices—supplemental instructions under the pre-emption law of 19th June, 1834, by order of the Secretary of the Treasury.*

GENERAL LAND OFFICE,

October 23, 1834.

GENTLEMEN: In consequence of representations made to the department respecting the operation of the third clause of the instructions contained in the circular letter of 22d July last, I have to inform you that the Secretary of the Treasury, unwilling to withhold the advantages of the late pre-emption law from applicants who may have meritorious and substantial claims to its benefits, and who, by reason of circumstances peculiar in their character, have no actual residence on the land claimed, has concluded so to modify the instruction complained of, as to admit, as exceptions from the general principle, such cases of the character referred to, as, in the exercise of a sound and liberal discretion on your part, shall appear from facts, satisfactorily proven, to come within the meaning

and intent of the act. The following are cited as examples of the cases expressly referred to:

Where the cultivation may have been made by an unmarried person, without family, boarding and lodging with another family resident on a tract adjoining, or in the immediate vicinity of his improvements; or by a married person living in a similar manner, where there has been actual and bona fide intention to reside on the land cultivated, but where the preparation was not complete, or the intention was frustrated by unavoidable accident; where the tract cultivated may have been a necessary and integral portion of a farm or plantation of an individual residing on an adjoining tract, and where, without the aid of the proceeds of such additional cultivation, he could not have maintained himself and family, and continued to reside where he did; or where, by reason of the unhealthy location of the lands cultivated, the individual may have fixed his residence on a neighboring tract: in all these cases, and others analogous in their circumstances and spirit, where the facts are distinctly proven, and where, in the exercise of a sound and liberal discretion, you are satisfied that they come within the meaning and intent of the law, the third clause of the circular letter referred to, which regards the erection of a dwelling-house for the purposes of habitation as a requisite of "*possession*," is modified so as to admit the right of entry.

2d. No pre-emption right to section No. 16, reserved for schools, can be sustained under existing laws, nor will the act of 19th June, 1834, admit of a floating right of pre-emption elsewhere, in virtue of a settlement and improvement in the sixteenth section. Individual claimants considering themselves aggrieved, under such circumstances, will have to prefer their claims to Congress.

3d. Where an individual establishes a right of pre-emption to a fractional section containing less than one hundred and sixty acres, or to a half-quarter section, the other half of which was sold previous to the date of the act, or to a *residuary* quarter-quarter of a section, (which residuary quarter-quarter must have been made such by locations made under the act of 5th April, 1832, inasmuch as quarter-quarters of sections cannot originally be selected as such under the pre-emption law,) in all such cases, the fraction, the half-quarter, or the quarter-quarter, is to be regarded as a separate and distinct tract, beyond the quantity of which the party can claim no right to locate elsewhere, or on adjoining lands; but in cases where two or more individuals are settled on any one such tract, the *two first actual settlers* are entitled to enter *in their joint names*, and each of these two is entitled to receive a floating right to eighty acres elsewhere.

4th. Where A settled on and cultivated a tract of public land in 1833, and prior to the 19th June, 1834, sold his right to B, who continued to improve and occupy the same on that day, B is regarded as entitled to the benefits of the act.

5th. Where A cultivated a tract of public land in 1833, and had placed B thereon as tenant in possession, who continued to improve and cultivate the same on the 19th June, 1834, A is regarded as entitled to the right of pre-emption, on due proof of cultivation and occupancy, as required by the act. But in case A, *prior* to the year 1833, had placed a tenant on a tract of public land, who cultivated and possessed, agreeably to the tenor of the act, the right of pre-emption is to accrue to the tenant.



6th. The testimony heretofore required to be taken before a justice of the peace, may also be taken before a notary public, or any other officer duly qualified to administer oaths.

7th. Where there were more than two actual settlers on a tract, floating rights accrue to the *two first* actual settlers, and to *none of the others*.

8th. Quarter-quarters of sections are created only by the operation of the act of 5th April, 1832, entitled "An act supplementary to the several laws for the sale of public lands."

The right to enter and make payment for quarter-quarters of sections, (lots of forty acres,) under the act of 19th June, 1834, can be claimed only in cases where residuary quarter-quarters are found to exist in a section, they having been created separate and distinct legal subdivisions by the peculiar operation of the act of 1832.

☞ While on this subject, I have to mention that, on inspecting the names of purchasers, it is apprehended that due caution is not observed by registers, in operating under the act of 1832; which provides that no one individual can enter more than eighty acres, in tracts of forty acres. Increased vigilance is strictly enjoined in this respect; and, in order to ensure a strict compliance with the law, the register is hereby required to keep an alphabetical list of the names of purchasers of quarter-quarters of sections, which list must always be referred to as a check, prior to the admission of entries of land in that mode, under the act aforesaid.

9th. In cases where individuals have settled on public lands since the passage of the act of 19th June, 1834, the form of affidavit prescribed in the 14th clause of the circular letter of 22d July last, may be varied to suit the peculiar circumstances of such case, by striking out the words "*and that there was not, at that time, any person residing thereon, or cultivating the same;*" and inserting, in lieu thereof, all the facts in the case as they are found to exist.

10th. Military land scrip cannot, under existing laws, be located on any public lands settled or occupied, "*without the written consent of such settlers or occupants*" as may be actually residing on said lands at the time the same shall be entered or applied for." Such settlement or occupancy, therefore, although it may or may not have reference to any existing pre-emption privilege, is a bar to the location of the scrip, without the written consent of the settler or occupant. The form of the affidavit prescribed for such cases by the circular letter of 2d October, 1833, will substantially remain unaltered; but in cases where individuals are desirous of locating scrip, it is not deemed necessary to require from them two separate affidavits—one under the circular of 2d October, 1833, and another under the 14th clause of the circular of 22d July last; but the substance of both those forms may be incorporated into one affidavit.

11th. Payment is to be required in all cases arising under the late pre-emption law, *at the time the right of entry is admitted*. In cases arising under the third section, or in such as may be of doubtful character, and which you may deem it necessary to refer for the decision of the department, payment will not be required until a favorable decision is communicated. Meanwhile, the land claimed is to be withheld from sale.

I am, very respectfully,

Your obedient servant,

Commissioner of the General Land Office.



P. S. It has been the usual practice of this office to acknowledge the receipt of the monthly and quarterly returns. Henceforward, that practice, which consumes time, and creates unnecessary labor, will be discontinued. If returns are not promptly rendered, the reason of the delay will be promptly demanded.

The register is requested to report to the surveyor general lists of such township plats as require renewal, in consequence of mutilation or defacement, and also to forward to this office a copy of such report.

The "*quarterly account book*," described in the circular letter of 28th August last, for the use of receivers, and also a supply of *printed blanks* for making quarterly returns to this office, (in lieu of the form of quarterly accounts heretofore in use,) have both been forwarded by mail some weeks since.

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GENERAL LAND OFFICE,

November 15, 1834.

GENTLEMEN: You are requested to suspend from public sale, or private entry, or pre-emption rights alleged under the act of 19th June, 1834, such lands as are proposed to be selected by Indian chiefs on floating rights arising under the treaty of Dancing Rabbit creek, of 27th September, 1830, and report to this office the fact of your having so done, accompanied by all the testimony in reference to pre-emption rights alleged to such lands under the act aforesaid.

I am, &c. &c.

ELIJAH HAYWARD.

To the REGISTER and RECEIVER of the land office at Chocehuma, Columbus, Mount Salus, and Augusta, Mississippi, and Tuscaloosa, Demopolis, and St. Stephen's, Alabama.

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GENERAL LAND OFFICE,

December 5, 1834.

GENTLEMEN: I herewith transmit, for your information and government, a copy of a letter of the Secretary of the Treasury, dated 18th ultimo, on the subject of locating floating rights, secured to certain Indians by the treaty of Dancing Rabbit creek.

You are requested to apprise this office of all pre-emption claims alleged to lands located under floating rights of the description referred to, and transmit the testimony adduced in support thereof, as required by my letter of 15th ultimo, accompanied by your opinion as to the merits of each case.

I am, &c. &c.

ELIJAH HAYWARD.

To the REGISTER and RECEIVER at Mount Salus, Augusta, Chocehuma, and Columbus, Mississippi, St. Stephen's, Tuscaloosa, and Demopolis, Alabama.

WAR DEPARTMENT,

January 13, 1835.

SIR: I have the honor to transmit, herewith, a report from the Chief Engineer, enclosing copies of certain circulars, being all that can be furnished by this department in answer to the resolution of the House of Representatives of the 8th instant.

Very respectfully,

Your most obedient servant,

LEW. CASS.

The PRESIDENT of the United States.

ENGINEER DEPARTMENT,

Washington, January 12, 1835.

SIR: I have the honor to return the resolution of the House of Representatives of the 8th instant, referred by you to this office, with copies of all circulars addressed, since the 30th of June last, to the officers disbursing under this department.

I am, sir, most respectfully,

Your obedient servant,

R. E. LEE,

Lt. of Eng'rs and Ass't Chief Eng'r.

Hon. LEWIS CASS,

Secretary of War.

ENGINEER DEPARTMENT,

Washington, August 6, 1834.

SIR: It is required that the annual estimate of funds for carrying on the operations under your charge, as an officer of this department, during the year 1835, and the annual report of their progress during the year ending the 30th of September, 1834, shall be transmitted in time to admit of their being received here by the 20th day of October next.

The statement accompanying your annual report must particularly exhibit the amount of funds, if any, that will be required to be drawn from the balance remaining in the Treasury, on account of your work, on the 30th September, for the purpose indicated by the several heads of the subjoined forms.

*List of balances of appropriation on the 30th September, 1834.*

Heads of appropriation.	Balances on the 30th of September, 1834.	Amount to be expended in the 4th quarter of 1834.	Amount required to complete the service of the present year, though not called for.	Amount which will not be required at any time for the present year, and which may be applied to the service of next year.	Amount which will not be required at all, and which may therefore be carried to the surplus fund.
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A strict compliance with the above is expected.

I am, very respectfully, sir,

Your obedient servant,

## ENGINEER DEPARTMENT,

*Washington, August 21, 1834.*

SIR: In accordance with the requirements of a circular just received from the War Department, you will furnish, with your annual report, an estimate of the funds necessary to complete the works under your charge. This is in addition to the information called for by the department circular, dated 6th instant.

Very respectfully, I have the honor to be,  
Sir, your obedient servant,

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## ENGINEER DEPARTMENT,

*Washington, August 21, 1834.*

SIR: The following named banks having been selected by the Secretary of the Treasury as depositories of the public money, the same course will be observed in reference to them as is prescribed for the banks named in the circular from this department, dated October 12, 1833, viz.

The Moyamensing Bank, at Philadelphia.

The Farmers and Mechanics' Bank of Michigan, at Detroit, Michigan.

Very respectfully,  
Sir, your obedient servant,

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## ENGINEER DEPARTMENT,

*Washington, September 18, 1834.*

SIR: The following named banks having been selected by the Secretary of the Treasury, as depositories of the public money, the same course will be observed in reference to them as is prescribed for the banks named in the circular from this department, dated October 12, 1833, viz.

The Louisville Savings Institution, at Louisville;

The Mechanics and Farmers' Bank of Albany;

The Bank of Augusta, at Augusta, Georgia; and

The Commercial Bank, at Cincinnati.

The "Bank of Louisville" has been discontinued.

Very respectfully,  
Sir, your obedient servant,







